IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(*Special Original Jurisdiction*)

TUESDAY, THE NINETEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

P R E S E N T

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 8585 of 2005

Between:

1. Mekala Musalaiah, S/o.Subbarayudu,
   R/o. Ponguru Kandrika, Marripadu Mandal,
   Nellore District.
2. Mekala Senaiah, S/o.Peraiah,
   R/o. Ponguru Kandrika, Marripadu Mandal,
   Nellore District. **..... PETITIONERS**

A N D

1. The Revenue Divisional Officer, Kavali, Nellore District.
2. The Revenue Officer, Marripadu Mandal, Nellore District
3. Muthineni Khajamma, W/o. Vengaiah
   R/o. Ponguru Kandrika, Marripadu Mandal, Nellore District.

..... RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue an order, direction or writ more particularly one in the nature of writ of Mandamus declaring the inaction of the respondents 1and 2 to initiate necessary proceedings against 3rd respondent under A.P. Control orders despite issuance of show-case notice dt 30.3.2005 bearing No.RCJ 1531/2005 to 3rd respondent for violation of the control orders and the authorisation on the report of the 2nd respondent sent during March ,2005 as illegal ,arbitrary , unjust and in violation of articles 14 of constitution of India and A.P. control orders and consequently direct the 1st respondent to initiate proceedings against the 3rd respondent for cancellation of her authorisation to distribute the commodities in Ponguru Kandrika village of Marripadu Mandal, Nellore District and appoint a regular dealer as per law and pass such other orders and further reliefs as this Hon'ble court deem fit and proper in the interest of justice.

Counsel for the Petitioner: MR.M.VENKATA NARAYANA
Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court made the following :

O R D E R

This writ petition is filed to declare the inaction of the respondents 1 and 2 to initiate necessary proceedings against the third respondent under the Andhra Pradesh Control Orders despite issuance of show cause notice dated 30-3-2005 bearing No.RCJ.1531/2005 to the third respondent for violation of the Control Orders and the authorisation on the report of the second respondent sent during March 2005 as illegal, arbitrary and in violation of Article 14 of the Constitution of India and A.P. Control Orders and consequently direct the first respondent to initiate proceedings against the third respondent for cancellation of her authorisation to distribute the commodities in Ponguru Kandrika village of Marripadu Mandal, Nellore district and appoint a regular dealer as per law.

The case of the petitioners is that the first respondent was appointed the third respondent as fair price shop dealer during 1996 and she was distributing the essential commodities to the villagers irregularly. The third respondent left the village during January 2002 for Khammam along with her husband Vengaiah and she had settled there. Thereafter, this fact was taken to the notice of first and second

respondents but no action was taken by them. But the fair price shop was being run by her close relative, Mr.Mekala Nagaiah. When Mr.Mekala Nagaiah, who was conducting the fair price shop in the name of third respondent and not distributing the commodities properly, the villagers sent representation against the third respondent, though the first and second respondents have not taken any action due to extraneous consideration. However, after great persuasion the second respondent conducted enquiry on2 6-2-2005 and submitted a report during March 2005 to the first respondent stating that the third respondent had left the village and her name was deleted from electoral rolls and Mr.Mekala Nagaiah is acting as benami dealer since three years and the second respondent also suggested to take necessary action against the third respondent for her unauthorized absence and permitting Mr.Mekala Nagaiah to run the fair price shop.

On the basis of the report submitted by the second respondent, the first respondent issued a notice to the third respondent on 30-3-2005 calling upon her to submit her explanation before 07-4-2005 as to why her authorisation should not be cancelled. But the first and second respondents instead of taking action against the third respondent permitted the fair price shop dealer of Bhimavaram village, which is situate at a distance of 5 Kms., away from Ponguru Kandrika village to distribute essential commodities on payment of challan. Thereupon, the petitioners represented their grievance to the first and second respondents not to permit the dealer at Bhimavaram but the first and second respondents instead of passing any order permitted the Panchayat Secretary of Ponguru Kandrika to distribute the essential commodities.

After hearing the learned counsel for the petitioner as well as the learned Govt.Pleader, it appears that the writ petition is premature.

When this court comes to the conclusion that the writ petition is premature one and liable to be dismissed, the learned counsel appearing for the petitioner, Mr.M.Venkatanarayana, at this stage, after making the above submissions seek leave of this Court to withdraw this writ petition with a leave to avail such remedies as may be available to the petitioner in law. Leave is accordingly granted.

The writ petition is accordingly dismissed as withdrawn. It is needless to observe that if the petitioner avails any such remedy, the same shall be considered on its own merits uninfluenced by the dismissal of this writ petition.

APRIL 19th, 2005. ----------

I S L. ELIPE DHARMA RAO, J.

To

1) 2 CD copies

2) 1 CC to MR.VENKATA NARAYANA

3) 1 CC to GP for Civil Supplies, High Court of AP, High Court Buildings,

Hyderabad.

4) The Revenue Divisional Officer, Kavali, Nellore district.

5) The Mandal Revenue Officer, Maripadu Mandal, Nellore district.

6) Mrs.Muthineni Khajamma, w/o. Vengaiah, r/o. Ponguru Kandrika (v)

Marripadu Mandal, Nellore district.